

Senate Bill 230

By: Senator Thompson of the 5th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 31-3-12.1 of the Official Code of Georgia Annotated, relating to contracts between county boards of health and authorization for and provisions applicable to county boards of health serving as community service boards, so as to modify certain provisions relating to the membership of community service boards; to amend Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to general provisions for mental health, so as to transfer the powers and duties of community service boards to the Department of Human Resources; to amend Chapter 2 of Title 37 of the Official Code of Georgia Annotated, relating to the administration of mental health, mental retardation, substance abuse, and other disability services, so as to transfer the duties pertaining to such administration to the Department of Human Resources; to replace community service boards with mental health centers; to transfer employees of the community service boards to the Department of Human Resources and make such employees state employees; to repeal certain provisions relating to community service boards, community service areas, and regional planning boards; to amend the Official Code of Georgia Annotated to make conforming changes; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 31-3-12.1 of the Official Code of Georgia Annotated, relating to contracts between county boards of health and authorization for and provisions applicable to county boards of health serving as community service boards, is revised as follows:

"31-3-12.1.

(a) In addition to any other power authorized by law, the county governing authority may authorize the county board of health to enter into a contract with the department ~~or a community mental health, developmental disabilities, and addictive diseases service board created under Chapter 2 of Title 37~~ to provide certain mental health, developmental

disabilities, and addictive diseases services based on the contractual agreement between the parties. In the event that the county governing authority exercises the authority granted by this ~~subsection~~ Code section, the county board of health shall appoint a director for mental health, developmental disabilities, and addictive diseases or a supervisor of the specific service which is being provided by the county board of health, whichever is applicable, who shall meet the requirements established by this ~~subsection~~ Code section. The director for mental health, developmental disabilities, and addictive diseases, or the service supervisor, shall not be required to be a physician and shall be a person other than the director of the county board of health appointed pursuant to Code Section 31-3-11. Further, such director for mental health, developmental disabilities, and addictive diseases or such supervisor of the specific service shall report directly to the county board of health and shall have no formal reporting relationship with the director of the county board of health.

~~(b) Pursuant to subsection (e) of Code Section 37-2-6, a county governing authority may authorize the membership of a county board of health to serve as the membership of a community mental health, developmental disabilities, and addictive diseases service board, provided that the county governing authority, the county board of health, and any other affected county governing authority act pursuant to subsection (e) of Code Section 37-2-6. If the membership of a county board of health exercises the authority granted pursuant to this subsection and Chapter 2 of Title 37 to serve as the membership of a community service board, the membership of the county board of health shall constitute the membership of the community service board and, at any time that such members are exercising duties and powers related to mental health, developmental disabilities, and addictive diseases, the community service board shall be an independent agency and shall operate in accordance with the provisions of Title 37 as a community service board. Notwithstanding any provisions of law to the contrary, a community service board and a county board of health which have the same membership may contract with each other, provided that any such contract is approved by the department prior to adoption."~~

SECTION 2.

Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to general provisions for mental health, is amended in Code Section 37-1-1, relating to definitions pertaining to general provisions for mental health, by renumbering paragraphs (5) through (19) as paragraphs (4) through (18) and by striking paragraph (4) which reads as follows:

"(4) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6."

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 37-1-2, relating to legislative findings as to mental health, developmental disability, and addictive disease problems and services and the role of county governing authorities, as follows:

"(a) The General Assembly finds that the state has a need to continually improve its system for providing effective, efficient, and quality mental health, developmental disability, and addictive disease services and to do so in the most cost-effective manner. The General Assembly also finds that the needs of the publicly funded mental health, developmental disability, and addictive disease system and the state can best be met through reorganizing the regional mental health, mental retardation, and substance abuse boards and certain functions of the Department of Human Resources. Further, the General Assembly finds that a comprehensive range of quality services and opportunities is vitally important to the existence and well-being of individuals with mental health, developmental disability, or addictive disease needs and their families. The General Assembly further finds that the state has an obligation and a responsibility to develop and implement planning and service delivery systems which focus on a core set of consumer oriented, community based values and principles which include, but are not limited to, the following:

- (1) Consumers and families should have choices about services and providers and should have substantive input into the planning and delivery of all services;
- (2) A single point of accountability should exist for fiscal, service, and administrative issues to ensure better coordination of services among all programs and providers and to promote cost-effective, efficient service delivery and administration;
- (3) The system should be appropriately comprehensive and adaptive to allow consumers and their families to access the services they desire and need;
- (4) Public programs are the foundation of the service planning and delivery system and they should be valued and nurtured; at the same time, while assuring comparable standards of quality, private sector involvement should be increased to allow for expanded consumer choice and improved cost effectiveness;
- (5) Planning should reside at the local level, with the primary authority vested in local government, consumers, families, advocates, and other interested local parties;
- (6) The system should ensure that the needs of consumers who are most in need are met at the appropriate service levels; at the same time, prevention strategies should be emphasized for those disabilities which are known to be preventable;
- (7) The system should be designed to provide the highest quality of services utilizing flexibility in funding, incentives, and outcome evaluation techniques which reinforce quality, accountability, efficiency, and consumer satisfaction;

(8) The functions of service planning, coordination, contracting, resource allocation, and consumer assessment should be separated from the actual treatment, habilitation, and prevention services provided by contractors;

(9) Consumers and families should have a single, community based point of entry into the system;

(10) Consumers, staff, providers, and ~~regional planning board and community service board members~~ mental health centers should receive ongoing training and education and should have access to key management resources such as information systems and technical and professional support services; and

(11) The department is responsible for ensuring the appropriate use of state, federal, and other funds to provide quality services for individuals with mental health, developmental disabilities, or addictive disease needs who are served by the public system and to protect consumers of these services from abuse and maltreatment."

SECTION 4.

Said chapter is further amended by revising subsection (b) Code Section 37-1-20 relating, to the division of mental health, developmental disabilities, and additive diseases, as follows:

"(b) The department, through the division, shall:

(1) Establish, administer, and supervise the state programs for mental health, developmental disabilities, and addictive diseases;

(2) Direct, supervise, and control the medical and physical care, treatment, and rehabilitation provided by the institutions and programs under its control, management, or supervision;

(3) Have authority ~~to contract for services with community service boards, and control over mental health centers as established, operated, and staffed by the department. All those entities operating as community service boards on July 1, 2009, shall become~~ mental health centers under the jurisdiction of the department;

(3.1) Have authority to contract with private agencies; and other public entities for the provision of services within a service area so as to provide an adequate array of services, choice of providers for consumers, and to comply with the applicable federal laws; and rules and regulations related to public or private hospitals; hospital authorities; medical schools and training and educational institutions; departments and agencies of this state; county or municipal governments; any person, partnership, corporation, or association, whether public or private; and the United States government or the government of any other state;

- (4) Establish and support programs for the training of professional and technical personnel ~~as well as regional planning boards and community service boards~~ and mental health centers;
- (5) Have authority to conduct research into the causes and treatment of disability and into the means of effectively promoting mental health;
- (6) Assign specific responsibility to one or more units of the division for the development of a disability prevention program. The objectives of such program shall include, but are not limited to, monitoring of completed and ongoing research related to the prevention of disability, implementation of programs known to be preventive, and testing, where practical, of those measures having a substantive potential for the prevention of disability;
- (7) Establish a system for regional administration of mental health, developmental disability, and addictive disease services in institutions and in the community under the supervision of a regional coordinator;
- (8) ~~Make and administer budget allocations to regional offices of the division established by the board pursuant to Code Section 37-2-4.1 to fund the operation of mental health, developmental disabilities, and addictive diseases facilities and programs;~~ Reserved.
- (9) Coordinate in consultation with providers, professionals, and other experts the development of appropriate outcome measures for client centered service delivery systems;
- (10) Establish, operate, supervise, and staff programs and facilities for the treatment of disabilities throughout this state;
- (11) Disseminate information about available services and the facilities through which such services may be obtained;
- (12) ~~Supervise the regional office's exercise of its responsibility and authority concerning funding and delivery of disability services;~~ Reserved.
- (13) ~~Supervise the regional offices concerning the receipt and administration of grants, gifts, moneys, and donations for purposes pertaining to mental health, developmental disabilities, and addictive diseases;~~ Reserved.
- (14) ~~Supervise the regional offices concerning making contracts with any hospital, community service board, or any public or private providers without regard to regional or state boundaries for the provision of disability services and in making and entering into all contracts necessary or incidental to the performance of the duties and functions of the division and the regional offices;~~ Reserved.
- (15) Regulate the delivery of care, including behavioral interventions and medication administration by licensed staff, or certified staff as determined by the division, within

residential settings serving only persons who are receiving services authorized or financed, in whole or in part, by the division;

(16) Classify 'community living arrangements' and 'host homes' for persons whose services are financially supported, in whole or in part, by funds authorized through the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources. As used in this ~~Code section~~ paragraph, the term:

(A) 'Community living arrangement' means any residence, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food, one or more personal services, supports, care, or treatment exclusively for two or more persons who are not related to the owner or administrator of the residence by blood or marriage.

(B) 'Host home' means a private residence in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or treatment exclusively for one or two persons who are not related to the occupant owner or lessee by blood or marriage. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the division. The division shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent in such person's advance directive for health care. The placement determination for each person placed in a host home shall be made according to such person's choice as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and

(17) Provide guidelines for and oversight of host homes, as defined in paragraph (16) of this subsection, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements."

SECTION 5.

Said chapter is further amended by revising Code Section 37-1-24, relating to use of a psychologist or a physician in lieu of one another, as follows:

"37-1-24.

No provision in this title shall require the department or any facility or private facility or ~~any community service board~~ to utilize a physician in lieu of a psychologist or a psychologist in lieu of a physician in performing functions under this title even though this title authorizes either a physician or a psychologist to perform the function."

SECTION 6.

Chapter 2 of Title 37 of the Official Code of Georgia Annotated, relating to the administration of mental health, mental retardation, substance abuse, and other disability services, is amended by revising Code Section 37-2-2, relating to definitions pertaining to general provisions for the administration of mental health, as follows:

"37-2-2.

As used in this chapter, the term:

(1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or other drugs and includes substance abuse.

~~(2) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.~~

~~(2.1) 'Community service board area' means an area inclusive of the counties which fall within the boundaries of a community service board as designated by the division pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community service board.~~

~~(2.2) 'Community service board service area' means a community service board area and any other county or portion thereof in which the community service board provides services.~~

~~(3)~~(2) 'Consumer' means a natural person who has been or is a recipient of disability services as defined in this Code section.

~~(4)~~(3) 'Developmental disability' includes mental retardation and other neurologically disabling conditions, including epilepsy, cerebral palsy, and autism, which require treatment similar to that for individuals with mental retardation.

~~(5)~~(4) 'Director' means the director of the Division of Mental Health, Developmental Disabilities, and Addictive Diseases.

~~(6)~~(5) 'Disability' means:

(A) Mental or emotional illness;

(B) Developmental disability; or

(C) Addictive disease.

~~(7)~~(6) 'Disability services' means services to the disabled or services which are designed to prevent or ameliorate the effect of a disability.

~~(8)~~(7) 'Disabled' means any person or persons having a disability.

~~(9)~~(8) 'Division' means the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources.

~~(10)~~(9) 'Hospital' means a state owned or state operated facility providing services which include, but are not limited to, inpatient care and the diagnosis, care, and treatment or

habilitation of the disabled. Such hospital may also provide or manage state owned or operated programs in the community.

(10) 'Mental health center' means a public mental health, developmental disabilities, and addictive diseases center operated under the authority of the department.

(11) 'Mental health service area' means an area inclusive of the counties which fall within the boundaries of a mental health center as designated by the division pursuant to subsection (b) of Code Section 37-2-3 for the establishment mental health centers.

~~(11) 'Regional board' means a regional mental health, mental retardation, and substance abuse board established in accordance with Code Section 37-2-4.1 as that Code section existed on June 30, 2002.~~

~~(12) 'Regional office' means the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources office created pursuant to Code Section 37-2-4.1. Such office shall be an office of the division which shall serve as the entity for the administration of disability services in a region.~~

~~(13) 'Regional planning board' means a regional mental health, developmental disabilities, and addictive diseases board established in accordance with Code Section 37-2-4.1."~~

SECTION 7.

Said chapter is further amended by repealing Code Section 37-2-5, relating to regional planning boards, establishing policy and direction for disability services, membership, bylaws, meetings, and expenses, and designating such Code section as reserved.

SECTION 7A.

Said chapter is further amended by repealing Code Section 37-2-4.1, relating to regional mental health, developmental disabilities, and addictive diseases offices, Code Section 37-2-5.1, relating to regional boards, regional coordinator, staff and personnel, and allocation of funds, and Code Section 37-2-5.2, relating to regional planning boards, duties and functions, power to contract, delegation of powers and duties, and books of account.

SECTION 8.

Said chapter is further amended by revising in its entirety Code Section 37-2-6, relating to the creation of community mental health, developmental disabilities, and addictive diseases service boards, as follows:

"37-2-6.

Community service boards in existence on June 30, 2009, are re-created as mental health centers effective July 1, 2009, under the jurisdiction of the department. The powers,

functions, obligations, and duties of the community service boards as they existed on June 30, 2009, are transferred to the department. The department shall be authorized to provide mental health, developmental disabilities, and addictive diseases services through mental health centers. Such mental health centers shall provide mental health, developmental disabilities, and addictive diseases services. Such centers shall be considered public agencies. The department shall determine and establish the employment and staffing needs of each mental health center. All employees of the mental health centers shall be considered state employees and employees of the department. "

SECTION 9.

Said chapter is further amended by revising Code Section 37-2-6.1, relating to community service boards, program director, staff, budget, facilities, powers, and duties, as follows:

"37-2-6.1.

(a) Each ~~community service board~~ mental health center shall employ an executive director to serve as its chief executive officer who shall direct the day-to-day operations of the ~~community service board center~~. Such executive director ~~shall be appointed and removed by the community service board and~~ shall appoint other necessary staff ~~pursuant to an annual budget adopted by the board, which budget and~~ shall provide for securing appropriate facilities, sites, and professionals necessary for the provision of disability services. The ~~community service board~~ department may delegate any power, authority, duty, or function to its such executive director or other staff. ~~The executive director or other staff is authorized to exercise any power, authority, duty, or function on behalf of the community service board.~~

(b) Each ~~community service board, under the jurisdiction of its board, shall perform duties, responsibilities, and functions and may exercise power and authority described in this subsection.~~ Each mental health center program may exercise the following power and authority to:

~~(1) Each community service board may adopt bylaws for the conduct of its affairs; provided, however, that the community service board shall meet at least quarterly, and that all such meetings and any bylaws shall be open to the public, as otherwise required under Georgia law;~~

~~(2)(1) Each community service board may make~~ With the approval of the department make and enter into all contracts necessary and incidental to the performance of its duties and functions;

~~(3)(2) Each community service board may acquire~~ Acquire on behalf of the department by purchase, gift, lease, or otherwise and may own, hold, improve, use, and sell, convey,

exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

~~(4)(3) Each community service board may contract Contract to utilize the services of the Department of Administrative Services, the State Merit System of Personnel Administration, the state auditor, or any other agency of state, local, or federal government;~~

~~(5) Each community service board may provide, either independently or through contract with appropriate state or local governmental entities, the following benefits to its employees, their dependents, and survivors, in addition to any compensation or other benefits provided to such persons:~~

~~(A) Retirement, pension, disability, medical, and hospitalization benefits, through the purchase of insurance or otherwise, but medical and hospitalization benefits may only be provided through the Department of Community Health under the same conditions as provided for such benefits to state employees, and the Department of Community Health shall so provide if requested;~~

~~(B) Life insurance coverage and coverage under federal old age and survivors' insurance programs;~~

~~(C) Sick leave, annual leave, and holiday leave, and~~

~~(D) Any other similar benefits including, but not limited to, death benefits;~~

~~(6)(4) Each community service board may cooperate Cooperate with all units of local government in the counties where the community service board mental health center provides services as well as neighboring regions and with the programs of other departments, agencies, and regional commissions and regional planning boards;~~

~~(7) Each community service board shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees; provided, however, each community service board shall comply with the provisions of Chapter 20 of Title 45, relating to state personnel administration, for as long as and to the extent that each employee of such board who is a covered employee as defined in Code Section 45-20-2 and is subject to the rules and regulations of the State Merit System of Personnel Administration remains in a covered position or as otherwise provided by law;~~

~~(8)(5) Each community service board may receive Receive and administer grants, gifts, contracts, moneys, and donations for purposes pertaining to the delivery of disability services;~~

~~(9) Each community service board may establish fees for the provision of disability services according to the terms of contracts entered into with the Department of Human Resources and the Department of Community Health;~~

~~(10)(6) Each community service board may accept~~ Accept appropriations, loans of funds, facilities, equipment, and supplies from local governmental entities in the counties where the ~~community service board~~ mental health center provides services;

~~(11) Each member of the community service board may, upon approval of the executive director, receive reimbursement for actual expenses incurred in carrying out the duties of such office; provided, however, such reimbursement shall not exceed the rates and allowances set for state employees by the Office of Planning and Budget or the mileage allowance for use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier;~~

~~(12) Each community service board shall elect a chairperson and vice chairperson from among its membership. The members shall also elect a secretary and treasurer from among its membership or may designate the executive director of the community service board to serve in one or both offices. Such officers shall serve for such terms as shall be prescribed in the bylaws of the community service board or until their respective successors are elected and qualified. No member shall hold more than one office of the community service board, except that the same person may serve as secretary and treasurer. The bylaws of the community service board shall provide for any other officers of such board and the means of their selection, the terms of office of the officers, and an annual meeting to elect officers;~~

~~(13) Each community service board may have a seal and alter it;~~

~~(14) Each community service board may contract with the State Merit System of Personnel Administration regarding its personnel who remain in the classified service;~~

~~(15)(7) Each community service board may establish~~ Establish fees, rates, rents, and charges for the use of facilities of the ~~community service board~~ mental health center for the provision of disability services in accordance with the ~~terms of contracts entered into with the~~ policies of the department; and

~~(16) Each community service board may borrow money for any business purpose and may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or obligation incurred by a community service board shall not be considered a debt, liability, or obligation of the state or any county or any municipality or any political subdivision of the state. A community service board may not borrow money as permitted by this Code section if the highest aggregate annual debt service requirements of the then current fiscal year or any subsequent year for outstanding borrowings of the community service board, including the proposed borrowing, exceed 15 percent of the total revenues of the community service board in its fiscal year immediately preceding the fiscal year in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt from~~

taxation by the state or its political subdivisions. A state contract with a community service board shall not be used or accepted as security or collateral for a debt, liability, or obligation of a community service board without the prior written approval of the commissioner;

(17) Each community service board, to the extent authorized by law and the contract for the funds involved, may carry forward without lapse fund balances and establish operating, capital, and debt reserve accounts from revenues and grants derived from state, county, and all other sources; and

(18)(8) Each community service board may operate Operate, establish, or operate and establish facilities deemed by the community service board mental health center as necessary and convenient for the administration, operation, or provision of disability services by the community service board center and may construct, reconstruct, improve, alter, repair, and equip such facilities to the extent authorized by state and federal law.

(c) Nothing shall prohibit a community service board mental health center or the department from contracting with any county governing authority, private or other public provider, or hospital for the provision of disability services.

(d) Each community service board exists for nonprofit and public purposes, and it is found and declared that the carrying out of the purposes of each community service board is exclusively for public benefit and its property is public property. Thus, no community service board shall be required to pay any state or local ad valorem, sales, use, or income taxes.

(e) A community service board does not have the power to tax, the power to issue general obligation bonds or revenue bonds or revenue certificates, or the power to financially obligate the state or any county or any municipal corporation.

(f)(d) A community service board shall not operate any facility for profit. A community service board mental health center may fix fees, rents, rates, and charges that are reasonably expected to produce revenues, which, together with all other funds of the community service board center, will be sufficient to administer, operate, and provide the following:

(1) Disability services;

(2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating its facilities; and

(3) The creation and maintenance of reserves sufficient to meet principal and interest payments due on any obligation of the community service board mental health center.

(g) Each community service board may provide reasonable reserves for the improvement, replacement, or expansion of its facilities and services. Reserves under this subsection shall be subject to the limitations in of this Code section.

~~(h)~~(e) Each county and municipal corporation of this state is authorized to convey or lease property of such county or municipal corporation to a ~~community service board~~ mental health center for its public purposes. Any property conveyed or leased to a ~~community services board~~ mental health center by a county or municipal corporation shall be operated by such ~~community service board~~ mental health center in accordance with this chapter and the terms of the ~~community service board's~~ mental health center's agreements with the county or municipal corporation providing such conveyance or lease.

~~(i)~~(f) Each ~~community service board~~ mental health center shall keep books of account reflecting all funds received, expended, and administered by the ~~community service board~~ center which shall be independently audited annually.

~~(j)~~(g) ~~A community service board~~ A mental health center may create, form, or become a member of a nonprofit corporation, limited liability company, or other nonprofit entity, the voting membership of which shall be limited to ~~community service boards~~ mental health centers, governmental entities, nonprofit corporations, or a combination thereof, if such entity is created for purposes that are within the powers of the ~~community service board~~ mental health center, for the cooperative functioning of its members, or a combination thereof; provided, however, that no funds provided ~~pursuant to a contract between~~ by the department and the ~~community service board~~ may be used in the formation or operation of the nonprofit corporation, limited liability company, or other nonprofit entity. ~~No community service board, whether or not it exercises the power authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law.~~

~~(k)~~ No community service board shall employ or retain in employment, either directly or indirectly through contract, any person who is receiving a retirement benefit from the Employees' Retirement System of Georgia except in accordance with the provisions of subsection (c) of Code Section 47-2-110; provided, however, that any such person who is employed as of July 1, 2004, may continue to be employed.

~~(l)~~(h) A ~~community service board~~ mental health center may join or form and operate, either directly or indirectly, one or more networks of ~~community service boards~~ mental health centers, disability professionals, and other providers of disability services to arrange for the provision of disability services through such networks; to contract either directly or through such networks with the Department of Community Health to provide services to Medicaid beneficiaries; to provide disability services in an efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis; and to undertake other disability related managed care activities. For purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other provision of law, a ~~community service~~

~~board~~ mental health center shall be permitted to and shall comply with the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to the activities undertaken by the ~~community service board~~ mental health center or by a ~~community service board~~ mental health center under this subsection or subsection (f)(g) of this Code section. No ~~community service board~~ mental health center, whether or not it exercises the powers authorized by this subsection, shall be relieved of compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. Any licensed health care provider shall be eligible to apply to become a participating provider under such a plan or network that provides coverage for health care or disability services which are within the lawful scope of the provider's license, but nothing in this Code section shall be construed to require any such plan or network to provide coverage for any specific health care or disability service."

SECTION 10.

Said chapter is further amended by revising Code Section 37-2-6.2, relating to employees whose jobs include duties or functions of a community service board on July 1, 1994, as follows:

"37-2-6.2.

(a)(~~f~~) Those employees whose job descriptions, duties, or functions as of June 30, ~~1994~~ 2009, included the performance of employment duties or functions which will become employment duties or functions of the personnel of a ~~community service board~~ mental health center on July 1, ~~1994~~ 2009, shall become employees of the ~~applicable community service boards~~ department on and after July 1, ~~1994~~ 2009. Such employees shall be subject to the employment practices and policies of the ~~applicable community service board~~ department on and after July 1, ~~1994~~ 2009. Employees who are subject to the State Merit System of Personnel Administration and who are transferred to a ~~community service board~~ the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, ~~1994~~ 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, ~~1994~~ 2009, without any interruption in membership service and without the loss of any creditable service. For purposes of coverage under the Employees' Retirement System of Georgia, such employees transferred to the ~~community service boards~~ mental health centers on July 1, ~~1994~~ 2009, shall be deemed to be state employees. Accrued annual and sick leave possessed by said employees on June 30, ~~1994~~ 2009, shall be retained by said employees as employees of the ~~community service board~~

~~department. Any person who is granted employment rights and benefits as a member of a community service board pursuant to this subsection and who later becomes employed, without any break in service, by the division, a hospital thereof, another community service board, a county board of health for which such person provides services pursuant to this title, or a regional board shall retain, in that later employment position, all such rights and benefits. Such rights and benefits shall also be retained by any person who is employed on June 30, 1994, by the division, a hospital thereof, a county board of health for which such person provides services pursuant to this title, or a regional board and who later becomes employed, without any break in service, by a community service board.~~

~~(2)(b)~~ Classified employees of a ~~community service board~~ mental health center under this chapter shall in all instances be employed and dismissed in accordance with rules and regulations of the State Merit System of Personnel Administration.

~~(3)(c)~~ All rights, credits, and funds in the Employees' Retirement System of Georgia which are possessed by personnel transferred by provisions of this Code section to the ~~community service boards~~ mental health centers are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the ~~community service boards~~ mental health centers.

~~(b) As to those persons employed by the division, a hospital thereof, or a regional board on June 30, 1994, any termination from state employment after that date of any such person who is a member of the classified service shall not result from the anticipated or actual employment or utilization by:~~

~~(1) The department;~~

~~(2) A regional board;~~

~~(3) A community service board;~~

~~(4) A hospital; or~~

~~(5) Any private provider of disability services of any person who is not an employee of the state or a political subdivision thereof to perform the duties and functions of such terminated state personnel unless such termination and utilization is the result of a reduction in appropriations for such duties or functions or is the result of a reduction in force caused by any other state department or agency which has ceased to contract with the department for the services which had been provided by the terminated state personnel."~~

SECTION 11.

Said chapter is further amended by repealing Code Section 37-2-6.3, relating to public body, debts, obligations, and liabilities of community service boards, Code Section 37-2-6.4,

relating to reconstituting or converting of organizational structure and the formation of new community service boards, Code Section 37-2-6.5, relating to cessation of operations by community service boards and outside managers, and Code Section 37-2-9.1, relating to compliance by regional planning boards and community service boards with laws as to open meetings and inspection of records and advisory boards.

SECTION 12.

Said chapter is further amended by repealing Code Section 37-2-10, relating to the director's emergency powers upon failure of a community service board to establish and administer programs, and designating such Code section as reserved.

SECTION 13.

Said chapter is further amended by revising Code Section 37-2-11.1, relating to venue in actions against a community service board, as follows:

"37-2-11.1.

(a) Venue for the purpose of any action against a ~~community service board~~ mental health center shall be the county in which the principal office of the ~~community service board~~ mental health center is located. For purposes of this Code section, 'principal office' shall be defined as the facility which houses the executive director or other such top administrator for the ~~community service board~~ mental health center.

(b) In any legal proceeding, a ~~regional planning board~~ mental health center ~~or the regional office~~ shall be considered a unit of the division and shall be afforded the assistance of legal counsel from the Attorney General.

(c)(1) ~~The community service boards shall be public bodies but shall not be considered agencies of the state or any specific county or municipality. Such community service boards~~ Mental health centers are public agencies in their own right and shall have the same immunity as provided for ~~counties~~ other state agencies. No county shall be liable for any action, error, or omission of a ~~community service board~~ mental health center. ~~Notwithstanding any provisions of law to the contrary, and regardless of any provisions of law which grant employees of the community service boards benefits under programs operated by the state or which deem them to be state employees only for purposes of those benefits, employees of the community service boards shall not be employees of the state but shall be employees of the community service boards and, further, the state shall not be liable for any action, error, or omission of such employees.~~

(2) ~~A community service board may employ or contract for legal counsel to assist in performing its duties and shall be authorized to appoint legal counsel to represent the community service board and its employees. The community service board~~ mental health

563 center may exercise any authority granted in Article 2 of Chapter 9 of Title 45, relating
564 to the indemnification, defense, and insuring of members and employees of public
565 bodies."

566 **SECTION 14.**

567 Said chapter is further amended by revising Code Section 37-2-11.2, relating to access by the
568 Department of Human Resources or regional offices to records of any program receiving
569 public funds and confidentiality, as follows:

570 "37-2-11.2.

571 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of
572 patient and client care, any program receiving any public funds from, or subject to
573 licensing, certification, or facility approval by, the Department of Human Resources ~~or a~~
574 ~~regional office~~ shall be required to provide the department ~~or the appropriate regional~~
575 ~~office or both~~, upon request, complete access to, including but not limited to authorization
576 to examine and reproduce, any records required to be maintained in accordance with
577 contracts, standards, or rules and regulations of the Department of Human Resources or
578 pursuant to the provisions of this title.

579 (b) Records obtained pursuant to subsection (a) of this Code section shall not be
580 considered public records and shall not be released by the department ~~or any regional office~~
581 unless otherwise specifically authorized by law.

582 (c) The ~~community service board~~ mental health center shall maintain a clinical record for
583 each consumer receiving treatment or habilitation services from such ~~board~~ center. The
584 treatment of clinical records of consumers in receiving services for mental illness shall be
585 governed by the provisions of Code Section 37-3-166. The treatment of clinical records
586 of consumers receiving habilitation services for developmental disabilities shall be
587 governed by the provisions of Code Section 37-4-125. The treatment of clinical records
588 of consumers in treatment for addictive diseases shall be governed by the provisions of
589 Code Section 37-7-166."

590 **SECTION 15.**

591 The Official Code of Georgia Annotated is amended by replacing "community service board"
592 with "mental health center", "community service boards" with "mental health centers", and
593 "community service areas" with "mental health service areas" wherever the former terms
594 occur in:

- 595 (1) Code Section 37-2-3, relating to designation of boundaries for mental health,
596 developmental disabilities, and addictive diseases regions;
- 597 (2) Code Section 37-2-4, relating to the Governor's Advisory Council for Mental Health,
598 Developmental Disabilities, and Addictive Diseases;

- (3) Code Section 37-2-7, relating to formulation and publication of a state plan for disability services;
- (4) Code Section 37-2-9, relating to coordination of disability services with related activities of other agencies and organizations;
- (5) Code Section 37-2-11, relating to allocation of available funds for services, recipients to meet minimum standards, accounting for fees generated by providers, and discrimination in providing services prohibited;
- (6) Code Section 37-3-1, relating to definitions pertaining to examination and treatment for mental illnesses generally;
- (7) Code Section 37-7-1, relating to definitions pertaining to hospitalization and treatment of alcoholics, drug dependent individuals, and drug abusers generally; and
- (8) Code Section 43-10A-7, relating to licensing requirements for professional counselors, social workers, and marriage and family therapists.

SECTION 16.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended in Code Section 50-5-51.1, relating to the purchase of commercial fidelity bonds for officials, officers, and employees of certain county boards and departments, as follows:

"50-5-51.1.

The commissioner of administrative services may, upon request, assist and coordinate with county departments of health; and county departments of family and children services; ~~and community service boards~~ for the purchase of commercial fidelity bonds for officials, officers, and employees of such ~~boards and~~ departments. The payment of the premium to the commercial fidelity carrier will be the responsibility of such county departments of health; and county departments of family and children services; ~~and community service boards.~~"

SECTION 17.

Said title is further amended by repealing Code Section 50-16-11.1, relating to commercial property policies for coverage of buildings, contents, and other property owned by community service boards.

SECTION 18.

This Act shall become effective on July 1, 2009.

SECTION 19.

All provisions in conflict with this act are repealed.